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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/643,194 08/21/00 KLIPPER

R MD-5663/LEA

000157
BAYER CORPORATION
PATENT DEPARTMENT
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PITTSBURGH PA 15205

IM31/0731

EXAMINER

ZITOMER, E

ART UNIT

PAPER NUMBER

1713

DATE MAILED:

07/31/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/643,194

Applicant
Klipper et al.

Examiner
First Last

Art Unit
1234



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) 16-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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1.

This responds to the communication of May 14, 2001. The restriction requirement of record between Groups I and II is maintained as stated below. The objection to the abstract of the disclosure and the rejection under 35 USC 112, second paragraph, both of record, are withdrawn in view of applicants' amendments. The rejection of record under 35 USC 103(a) is withdrawn in view of applicants' arguments. A new rejection of claims 1-15 under 35 USC 103(a) is given as stated below. No claim is allowed.

2.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3.

Applicant's election with traverse of Group I, claims 1-15 in Paper No. 5 is acknowledged. The traversal is on the ground that claim 16 is a product prepared by the process of claim 1, i.e. a product by process claim. This is not found persuasive because it is well settled that the patentability of a product rests with the actual product formed as opposed to the method by which it is formed and that applicant has the burden of establishing an unobvious difference over the reference product. *In re Marosi*, 218 USPQ 289; *In re Thorpe*, 227 USPQ 964.

The requirement is still deemed proper and is therefore made FINAL.

4.

This application contains claims 16 - 18 drawn to an invention nonelected with traverse

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in Paper No. 5. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144). See MPEP § 821.01.

5.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Timm, US 4,444,961, and Klipper et al., US 4,952,608, and Corte et al., US 3,006,866, hereinafter Corte '866.

The claimed process is a compilation of generally known steps. Timm for example as acknowledged at page 3, lines 13-17 of applicant's disclosure teaches instant step (a), viz. the method for a monodisperse crosslinked vinylaromatic base polymer. Klipper teaches the amidomethylation and conversion to an aminomethylated bead polymer of instant steps (b) and (c) including the instant embodiments of a phthalimide ether and sulfuric acid catalysis [column 1, lines 27-54; column 3, line 18 - column 4, line 5; claims 3,5,6 and 7]. Corte '866 teaches introducing aminoalkyl groups via chloromethyl phthalimide and subsequent alkylation to form weak or strong anion exchangers, i.e. instant step (d) [paragraph bridging columns 1 and 2; column 3, line 43 - column 4, line 2]. It would have been obvious to prepare anion exchangers according to instant steps (a) to (d) because ^{TIMM}Meitzner and Klipper and Corte '866 teach each step of the process. 78

6.

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground of rejection.

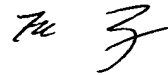
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7.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Zitomer whose telephone number is (703) 308-2461. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful David Wu can be reached at (703) 308-2450. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2351.



FRED ZITOMER, PhD
PRIMARY EXAMINER
ART UNIT 1713

Zitomer/fz
July 28, 2001